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# Antitrust and the Health Care Industry: The View from the Three Branches

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## **Abstract**

This article provides a critical appraisal of the summer's three major health care antitrust events. The California Dental Association case, the Justice Department's challenge to the Aetna-Prudential merger, and the proposed Quality Health Care Coalition Act of 1999 are likely to have a significant influence on the trajectory of antitrust enforcement in the coming years. The author argues that the reasoning of these precedents suffers from an over reaction to the managed care bogeyman and a lack of attention to sound antitrust jurisprudence. In a postscript, it finds similar shortcomings with the Eighth Circuit's recent decision in *FTC & State of Missouri v. Tenet Healthcare*. The increasing unwillingness of courts and policymakers to assume that health care markets should be left to function without strong deference to the judgment of health professionals marks a new and unwarranted turn in antitrust health care doctrine that the author criticizes.

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